

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Competitive Product Prices
Global Reseller Expedited Package Contracts 1
(MC2010-21)
Negotiated Service Agreement

Docket No. CP2012-14

PUBLIC REPRESENTATIVE COMMENTS ON
POSTAL SERVICE NOTICE OF FILING AN ADDITIONAL
GLOBAL RESELLER EXPEDITED PACKAGE CONTRACT 1
NEGOTIATED SERVICE AGREEMENT

(January 24, 2012)

The Public Representative hereby provides comments pursuant to Order No. 1138.¹ In that Order, the Commission established the above referenced docket to receive comments from interested persons, including the undersigned Public Representative, on the Postal Service's Notice of filing a new Global Reseller Expedited Package (GREP) contract.² Global Reseller Expedited Package contracts provide discounted prices for Express Mail International (EMI) and/or Priority Mail International (PMI) to resellers (sales agents) who in turn market EMI and PMI at discounted prices to their customers, particularly small and medium-sized businesses. Notice at 4.

Prices and classifications not of general applicability for GREP contracts were previously established by Governors' Decision No. 10-1, issued March 24, 2010.³ In Order No. 445, Commission approved the addition of the Global Reseller Expedited Package Contracts 1 product (MC2010-21) to the competitive products list, and

¹ PRC Order No. 1138, Notice and Order Concerning an Additional Global Reseller Expedited Package Contract Negotiated Service Agreement, January 17, 2012.

² Notice of United States Postal Service of Filing a Functionally Equivalent Global Reseller Expedited Package Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, January 12, 2012 (Notice).

³ See Request of the United States Postal Service to Add Global Reseller Expedited Package Contracts to the Competitive Products List and Notice of Filing (Under Seal) of Contract and Enabling Governors' Decision, Docket Nos. MC2010-21 and CP2010-36, March 29, 2010 (Request).

included a GREP contract (CP2010-36) within the product.⁴ That GREP contract serves as the “baseline” agreement for purposes of functional equivalency analysis with respect to future GREP contracts. *Id.* at 8. In Order No. 755, the Commission included a subsequent GREP contract (CP2011-65) within in the Global Reseller Expedited Package Contracts 1 product.⁵ The GREP contract approved by the Commission in Order No. 755 is the successor to the contract that was the subject of Docket No. CP2010-36. Notice at 2.

The instant contract is a renewal of the GREP contract filed in Docket No. CP2011-65, which was scheduled to expire on January 21, 2012.⁶ The contract will remain in effect until June 30, 2014, unless terminated earlier by either party on not less than 30 days written notice. *Id.*, Attachment 1 at 5.

The Postal Service states that the instant GREP contract is functionally equivalent to the baseline contract and is in compliance with the requirements of 39 U.S.C. § 3633. *Id.* at 6-7. It therefore requests that the instant GREP contract “be added to the GREP Contracts 1 product grouping.” *Id.* at 7.

COMMENTS

The Public Representative has reviewed the Postal Service’s Notice, the agreement, and the supporting financial model filed under seal that accompanied the Postal Service’s Notice. Based upon that review, the Public Representative concludes that the instant GREP contract is functionally equivalent to the baseline agreement. In addition, it appears the negotiated prices should generate sufficient revenues to cover costs and satisfy the requirements of 39 U.S.C. § 3633.

⁴ PRC Order No. 445, Order Concerning Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket Nos. MC2010-21 and CP2010-36, April 22, 2010.

⁵ PRC Order No. 755, Order Approving Additional Global Reseller Expedited Package Contracts Negotiated Service Agreement, Docket No. CP2011-65, June 30, 2011.

⁶ *Id.* at 1. However, in response to a Postal Service motion, the Commission approved extension of the GREP contract filed in Docket No. CP2011-65 until the earlier of either (1) the effective date of the contract filed in Docket No. CP2012-14, or (2) January 27, 2012. See United States Postal Service Motion for Extension of Competitive Rates Under Negotiated Service Agreement, January 12, 2012; see also PRC Order No. 1144, Order Granting Motion for Extension, January 19, 2012.

Functional Equivalence. The Postal Service states that the instant contract is “substantially similar to the contract filed in Docket No. CP2010-36,” which serves as the baseline agreement. *Id.* at 3. More specifically, the Postal Service asserts that the “functional terms” of the contract “are the same as those of the [baseline] agreement,” and that the instant contract “shares the same cost and market characteristics,” as well. *Id.* at 4.

Nevertheless, the Postal Service identifies differences between the instant contract and the baseline agreement. *Id.* at 5 and 6. With the exception of the addition of a new article concerning Intellectual Property, Co-Branding, and Licensing (Article 32), the differences also appear to have been incorporated into the contract filed in Docket No. CP2011-65. Despite these differences, the Postal Service maintains that nothing detracts from the conclusion that the instant contract is “functionally equivalent in all pertinent respects.” *Id.* at 6. [citation omitted] The Public Representative agrees and concludes that the instant contract is functionally equivalent to the baseline agreement.

Requirements of 39 U.S.C. § 3633. Under section 3633(a), prices for competitive products must cover each product’s attributable costs, not result in subsidization of competitive products by market dominant products, and enable competitive products as a whole to contribute an appropriate share to the institutional costs of the Postal Service. In this proceeding, the Postal Service’s financial model indicates that the negotiated prices in the contract will cover costs, as well as exceed the minimum cost coverage approved in Governor’s Decision No. 10-1. Based upon a review of that model, it appears that the negotiated prices satisfy the requirements of section 3633(a).

The Public Representative respectfully submits the foregoing comments for the Commission's consideration.

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